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6
7 UNITED STATES DISTRICT COURT
8 NORTHERN DISTRICT OF CALIFORNIA
9 SAN JOSE DIVISION

10 UNITED STATES OF AMERICA,

Case No.: CR 09-00717-01 JF

11 Plaintiff,

**STIPULATION TO CONTINUE
HEARING AND EXCLUDE TIME AS TO
MARCO BARBOSA; ~~[PROPOSED]~~
ORDER**

12 v.

13
14 MARCO BARBOSA; MARIA BARBOSA,

Honorable Jeremy Fogel

15 Defendants.
16 _____/

17 Defendant Marco Barbosa and the government, through their respective counsel, hereby
18 stipulate that, subject to the Court's approval, the hearing in the above-captioned matter, presently
19 scheduled for Wednesday, August 19, 2009 at 9:00 a.m., be continued to Wednesday, September 9,
20 2009, at 9:00 a.m. The continuance is requested in order to coordinate Mr. Barbosa's appearance
21 with that of his wife, Maria Barbosa, who is set to appear on September 9, 2009. Additionally, the
22 continuance is requested to allow time for effective defense preparation and investigation.

23 The parties further agree that time should be excluded under the Speedy Trial Act because the
24 ends of justice served by granting the requested continuance outweigh the interest of the public and
25 the defendant in a speedy trial. The failure to grant the requested continuance would deny defense
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counsel reasonable time necessary for effective preparation, taking into account the exercise of due diligence, and would result in a miscarriage of justice. The parties therefore stipulate that this exclusion of time should be made under 18 U.S.C. §§ 3161(h)(7)(A) and (B)(iv).

Dated: 8/11/09

/s/
LARA S. VINNARD
Assistant Federal Public Defender

Dated: 8/11/09

/s/
DAVID CALLAWAY
Assistant United States Attorney

[PROPOSED] ORDER

The parties have jointly requested a continuance of the hearing set for Monday, August 19, 2009, to consolidate Mr. Barbosa's first appearance in the district court with the first appearance of his wife, and to allow time for effective defense preparation and investigation.

GOOD CAUSE APPEARING, IT IS HEREBY ORDERED that the hearing date presently set for Wednesday, August 19, 2009, be continued to Wednesday, September 9, 2009, at 9:00 a.m.

Accordingly, for good cause shown, the Court HEREBY ORDERS that time be excluded under the Speedy Trial Act from August 19, 2009 to September 9, 2009. The Court finds, based on the aforementioned reasons, that the ends of justice served by granting the requested continuance outweigh the interest of the public and the defendant in a speedy trial. The failure to grant the requested continuance would deny defense counsel reasonable time necessary for effective preparation, taking into account the exercise of due diligence, and would result in a miscarriage of justice. The Court therefore concludes that this exclusion of time should be made under 18 U.S.C. §§ 3161(h)(7)(A) and (B)(iv).

Dated: 8/17/09


JEREMY FOGEL
United States District Judge